

BRB No. 02-0593

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|---------------------------|---|----------------------------------|
| BEVERLY ANITA BROWN       | ) |                                  |
|                           | ) |                                  |
| Claimant-Respondent       | ) |                                  |
|                           | ) |                                  |
| v.                        | ) |                                  |
|                           | ) |                                  |
| NEWPORT NEWS SHIPBUILDING | ) | DATE ISSUED: <u>MAR 21, 2003</u> |
| AND DRY DOCK COMPANY      | ) |                                  |
|                           | ) |                                  |
| Self-Insured              | ) |                                  |
| Employer-Petitioner       | ) | ORDER                            |

Employer appeals the Supplemental Order Declaring Default (OWCP Nos. 5-73160, 5-82606, 5-94043, 5-97012, 5-110537, 5-110538) of District Director Basil E. Voultsides. The parties settled claimant's compensation claim pursuant to Section 8(i), 33 U.S.C. §908(i), for a lump sum of \$17,500. The district director's Order approving this settlement was filed on December 18, 2000. Claimant did not receive the compensation due under the terms of the settlement until January 5, 2001. Claimant thereafter moved for the imposition of a 20 percent penalty pursuant to Section 14(f), 33 U.S.C. §914(f), and an order declaring employer to be in default for failure to pay the Section 14(f) penalty. Employer opposed claimant's motion, contending claimant intentionally evaded service of the compensation check, and that it made every good faith attempt to deliver the compensation to claimant in a timely manner.

In his Supplement Order Declaring Default, the district director found that employer did not pay claimant compensation within 10 days of when it became due. He therefore found employer liable for a Section 14(f) penalty and that employer is in default for the amount of the Section 14(f) penalty, \$3,500, plus interest. Employer appeals the district director's order, contending that it timely mailed a compensation check by certified mail to claimant's correct address and that claimant failed to claim the mail in a timely manner. Claimant responds, contending that the Board lacks jurisdiction over employer's appeal, and alternatively, that the district director's Order should be affirmed.

We dismiss employer's appeal for lack of jurisdiction. The Board does not have jurisdiction, pursuant to Section 21(b), 33 U.S.C. §921(b), to review the district director's Order declaring employer to be in default of an amount due pursuant to Section 14(f) when employer has not paid the penalty. Rather, pursuant to Section 18(a), 33 U.S.C. §918(a), jurisdiction over the enforcement and

lawfulness of the district director's default order lies only with the district court. *Snowden v. Director, OWCP*, 253 F.3d 725, 35 BRBS 81(CRT) (D.C. Cir. 2001); *Providence Washington Ins. Co. v. Director, OWCP*, 765 F.2d 1381, 17 BRBS 135(CRT) (9<sup>th</sup> Cir. 1985); *Tidelands Marine Service v. Patterson*, 719 F.2d 126, 16 BRBS 10(CRT) (5<sup>th</sup> Cir. 1983); *cf. Sea-Land Service, Inc. v. Barry*, 41 F.3d 903, 29 BRBS 1(CRT) (3<sup>d</sup> Cir. 1994) (Board has jurisdiction where employer has paid the penalty). The record and pleadings before the Board do not reveal that employer has paid the Section 14(f) penalty. Thus, employer's appeal must be dismissed.

Accordingly, employer's appeal is dismissed.

SO ORDERED.

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ROY P. SMITH  
Administrative Appeals Judge

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REGINA C. McGRANERY  
Administrative Appeals Judge

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PETER A. GABAUER, Jr.  
Administrative Appeals Judge